

§ 233.3

40 CFR Ch. I (7–1–04 Edition)

representative of the Director. If responsibility is divided among two or more State or interstate agencies, Director means the chief administrative officer of the State or interstate agency authorized to perform the particular procedure or function to which reference is made.

State 404 program or *State program* means a State program which has been approved by EPA under section 404 of the Act to regulate the discharge of dredged or fill material into certain waters as defined in § 232.2(p).

[53 FR 20776, June 1, 1988, as amended at 58 FR 8183, Feb. 11, 1993]

§ 233.3 Confidentiality of information.

(a) Any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter at the time of submittal and a final determination as to that claim will be made in accordance with the procedures of 40 CFR part 2 and paragraph (c) of this section.

(b) Any information submitted to the Director may be claimed as confidential in accordance with State law, subject to paragraphs (a) and (c) of this section.

(c) Claims of confidentiality for the following information will be denied:

- (1) The name and address of any permit applicant or permittee,
- (2) Effluent data,
- (3) Permit application, and
- (4) Issued permit.

§ 233.4 Conflict of interest.

Any public officer or employee who has a direct personal or pecuniary interest in any matter that is subject to decision by the agency shall make known such interest in the official records of the agency and shall refrain from participating in any manner in such decision.

Subpart B—Program Approval

§ 233.10 Elements of a program submission.

Any State that seeks to administer a 404 program under this part shall submit to the Regional Administrator at least three copies of the following:

(a) A letter from the Governor of the State requesting program approval.

(b) A complete program description, as set forth in § 233.11.

(c) An Attorney General's statement, as set forth in § 233.12.

(d) A Memorandum of Agreement with the Regional Administrator, as set forth in § 233.13.

(e) A Memorandum of Agreement with the Secretary, as set forth in § 233.14.

(f) Copies of all applicable State statutes and regulations, including those governing applicable State administrative procedures.

§ 233.11 Program description.

The program description as required under § 233.10 shall include:

(a) A description of the scope and structure of the State's program. The description should include extent of State's jurisdiction, scope of activities regulated, anticipated coordination, scope of permit exemptions if any, and permit review criteria;

(b) A description of the State's permitting, administrative, judicial review, and other applicable procedures;

(c) A description of the basic organization and structure of the State agency (agencies) which will have responsibility for administering the program. If more than one State agency is responsible for the administration of the program, the description shall address the responsibilities of each agency and how the agencies intend to coordinate administration and evaluation of the program;

(d) A description of the funding and manpower which will be available for program administration;

(e) An estimate of the anticipated workload, e.g., number of discharges.

(f) Copies of permit application forms, permit forms, and reporting forms;

(g) A description of the State's compliance evaluation and enforcement programs, including a description of how the State will coordinate its enforcement strategy with that of the Corps and EPA;

(h) A description of the waters of the United States within a State over which the State assumes jurisdiction under the approved program; a description of the waters of the United States